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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,343	01/22/2001	Daryl E. Eicher JR.	58462.090907	9031

29315 7590 07/16/2003

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RESTON, VA 20190

EXAMINER

JEANTY, ROMAIN

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 07/16/2003

☒ This action is FINAL. ☐ This action is non-final.

Please find below and/or attached an Office communication concerning this application or proceeding.

☐ Claim(s) are subject to restriction and/or election requirement.

Applicant Papers

☐ The specification is objected to by the Examiner.

☐ The drawing(s) filed on _____ (s/are: a) ☐ accepted or b) ☐ objected to by the

Applicant may not request that the objection to the drawing(s) be held in abeyance

Office Action Summary

Application No.

09/765,343

Applicant(s)

EICHER ET AL.

Examiner

Romain Jeanty

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. This final Office action is in response to the amendment filed April 17, 2003. Claims 1-2, 7-12, 17-22, 27 and 29-30 have been amended. No new claims have been added. Claims 1-30 are pending in the application.
2. Amendment to the specification has overcome the objection.
3. Amendment to claims 7, 9-10, 17, 19-20 and 27 has overcome the 112, second paragraph.

Response to Arguments

4. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, 4-12, 14-22, 24-27 and 29-30 are rejected under 35 USC 103(a) as being unpatented over Conklin et al (U.S. Patent No. 6,338,050) in view of Dudle et al (U.S. Patent No. 5,570,291).

As per claim 1, Conklin discloses a negotiations system for negotiating and tracking contracts comprising:

enabling communication between sellers and buyers which includes information of a product and at least one key performance indicators (contract terms) (See figures 1a, 11a-1; col. 14, lines 1-14 and col. 17, lines 17-32);

monitoring the activity of contract terms by data extraction (col. 14, lines 2-19; col. 17, line 35 through col. 18, line 6; col. 19, lines 14-27 and col. 33, lines 3-25).

It is noted that even though Conklin does not explicitly disclose specific operating systems such as an engagement, monitoring and server module. However, it would have been obvious to one ordinary skill in the art that these operating systems are desirable and required to produce an operational system incorporating the present invention.

Concklin et al fails to explicitly disclose monitoring performance of the supplier in the buyer-supplier engagement and whereby the supplier can monitor its compliance with aspects of the buyer-supplier engagement. Dudle et al in the same field of endeavor, discloses the idea of the supplier (corporate office) monitoring of his performance and compliance. It would have been obvious to a person of ordinary skill in the art to modify the negotiations system of Concklin et al with the teaching of Dudle et al. A person having ordinary skill in the art would have been motivated to use such a modification in order to ensure suppliers/vendors are meeting their service level agreements.

As per claim 2, Conklin discloses the system of claim 1 wherein business documents exchange between buyer and supplier comprise a markup language document with tags to indicated data to be monitored (i.e. creating HTML or XML language documents to

communicate between sellers and buyers). Since the documents are being exchanged, it is noted that the documents have to be converted (col. 20, lines 44-51).

As per claim 4, Conklin discloses monitoring terms and contracts between the buyer and the seller by extracting document data (col. 14, lines 20-29 and col. 17, line 35 through col. 18, line 6; col. 19, lines 14-27 and col. 33, lines 3-25).

As per claim 5, Conklin discloses monitoring more than one negotiated terms "performance indicators" (col. 14 lines 61-64).

As per claim 6, Concklin discloses keeping track of set of changes "deviations" (col. 24, lines 27-35) in the negotiations and alerts "sending changes messages" to an entity terminal (col. 26, lines 3-10 and col. 34, lines 39-47).

As per claim 7, Concklin discloses substantially evaluating proposed terms between buyers and sellers (col. 23 line 63 through col. 24 line 12).

As per claim 8, Conklin discloses a negotiating engine for helping participants to buy from any other seller (col. 25, lines 18-25).

As per claim 9, Conklin discloses allowing communications between buyers and sellers substantially (col. 18, lines 47-65).

As per claim 10, Conklin discloses monitoring substantially business documents between the sellers and the buyers (col. 18, lines 47-65).

As per claim 11, Conklin discloses a negotiations system for negotiating and tracking contracts comprising:

A negotiating system connecting to users' terminals through a network (col. 24, lines 21-30) for enabling communication between sellers and buyers which includes information of a

product and at least one key performance indicators (contract terms) (See figures 1a, 11a-1 and col. 17, lines 17-32);

monitoring the activity of contract terms by data extraction (col. 14, lines 2-19; col. 17, line 35 through col. 18, line 6; col. 19, lines 14-27 and col. 33, lines 3-25).

Concklin et al fails to explicitly disclose a monitoring module (software) for monitoring negotiations between buyers and sellers (col. 24, lines 39-66). But Concklin does not explicitly disclose the monitoring module for monitoring supplier's performance and compliance, and whereby the supplier can monitor its compliance with aspects of the buyer-supplier engagement. Dudle et al in the same field of endeavor, discloses a software associated with a corporate office for monitoring his or her performance and compliance (col. 4, lines 20-23; col. 5, lines 2-20 and col. 7, lines 13-21).

It would have been obvious to a person of ordinary skill in the art to modify the negotiations system of Concklin with the teaching of Dudle et al. A person having ordinary skill in the art would have been motivated to use such a modification in order to determine which sales representatives deserve rewards for their successful endeavors or require additional training and incentives to improve their performance.

As per claim 12, Concklin discloses the system of claim 1 wherein business documents exchanged between buyer and supplier comprise a markup language document with tags to indicated data to be monitored (i.e. creating HTML or XML language documents to communicate between sellers and buyers). Since the documents are being exchanged, it is noted that the documents have to be converted (col. 20, lines 44-51).

As per claim 14, Conklin discloses monitoring terms and contracts between the buyer and the seller by extracting document data (col. 14, lines 20-29 and col. 17, line 35 through col. 18, line 6; col. 19, lines 14-27 and col. 33, lines 3-25).

As per claim 15, Conklin discloses monitoring more than one negotiated terms "performance indicators" a (col. 14 lines 61-64).

As per claim 16, Conklin discloses keeping track of set of changes "deviations" (col. 24, lines 27-35) in the negotiations and alerts "sending changes messages" to an entity terminal (col. 26, lines 3-10 and col. 34, lines 39-47).

As per claim 17, Conklin discloses evaluating proposed terms between the buyers and the sellers (col. 23 line 63 through col. 24 line 12).

As per claim 18, Conklin discloses a negotiating engine for helping participants to buy or modify the terms from any other seller (col. 25, lines 18-25) including an XML and parsers as taught by Sanchez.

As per claim 19, Conklin discloses monitoring communications between the sellers and the buyers substantially (col. 18, lines 47-65).

As per claim 20, Conklin discloses a server for allowing communications between buyers and sellers and documents to pass through (col. 18, lines 47-65).

Claim 21 is the method for performing the system of claim 1 and is similarly rejected.

Claim 22 is the method for performing the system of claim 12 and is similarly rejected.

Claim 24 is the method for performing the system of claim 4 and is similarly rejected.

Claim 25 is the method for performing the system of claim 5 and is similarly rejected.

Claim 26 is the method for performing the system of claim 6 and is similarly rejected.

Claim 27 is the method for performing the system of claim 7 and is similarly rejected.

Claim 29 is the method for performing the system of claim 9 and is similarly rejected.

Claim 30 is the method for performing the system of claim 10 and is similarly rejected.

7. Claims 3, 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin et al (herein referred to as Concklin U.S. Patent No. 6,338,050) as applied to claims 1-2, 11-12, and 22-23 in view of Sandhu et al (U.S. Patent No. 6,347,307).

As per claims 3, 13, 23, Conklin discloses using markup language (col. 20, lines 44-51), but Conklin does not explicitly disclose using a markup language comprising of pXML. Sandhu on the other hand, discloses using XML and parsers (pXML) for extracting document data (col. 8, lines 15-26 and col. 36, lines 50-63). Since Sandhu exchanges the business documents, it is noted that the business documents have to be translated into HTML language. It would have been obvious to a person of ordinary skill in the art to modify the negotiations system of Conklin by including an XML and parsers as taught by Sandhu. Doing so would allow buyers and sellers to negotiate prices, terms and conditions iteratively until an agreement is reached on all points.

8. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin et al (herein referred to as Concklin U.S. Patent No. 6,338,050).

As per claim 28, Conklin discloses all the limitations above except for the explicit recitation of enabling buyers and suppliers to initiate an engagement based on information extracted from previous relationship between the buyer and the supplier. However, Conklin does teach maintaining internal databases that contain the history of all transactions in each community, so that sponsors, buyers and sellers may retrieve appropriate records to document each stage of interaction and negotiation as noted in col. 14, lines 24-29. Such a teaching suggests information is extracted from previous relationship by the buyer and supplier. Obvious

to modify Conklin to incorporate extracted from previous relationship by the buyer and supplier for the motivation of proposing and negotiating orders and counter offers.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dialog (Dirig Introduces Revolutionary Performances Solutions for Service Providers) discloses the monitoring of performance and compliance of sellers and customers.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached Monday-Thursday from 7:30 am to 6:00 pm.

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If attempts to reach the examiner are not successful, the examiner's supervisor, Tariq R Hafiz can be reached at (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C 20231

or faxed to:

(703) 305-7687

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington VA, seventh floor receptionist.

A handwritten signature in black ink, appearing to read "Romain Jeanty". The signature is fluid and cursive, with the first name "Romain" being more prominent than the last name "Jeanty".

Romain Jeanty

Patent Examiner

July 10, 2003